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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,772	12/06/2001	Martin L. Gronberg	NETS0082	9956
22862	7590	09/19/2006	EXAMINER	
GLENN PATENT GROUP 3475 EDISON WAY, SUITE L MENLO PARK, CA 94025			LANEAU, RONALD	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/008,772

Applicant(s)

GRONBERG ET AL.

Examiner

Ronald Laneau

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-15 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-15, 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/6/06 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 11, 12, 14, 15 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Tam et al (2002/0147656).

As per claim 11 and 21-23, Tam discloses a system for quantifying the effectiveness of advertising using an online merchant system (304; see Figure 3) that facilitates commercial transactions involving commerce items, comprising: a commerce item information receiving system (Aggregator 302 see e.g. Figure 3; see also e.g. page 2, paragraph 0020) that is accessible by at least one online entity (seller 304) that may interface with the commerce item information system (302) to deliver a data feed comprised of plurality of commerce item information packets that relate to commerce items that can be shopped for by online users via the online merchant

Art Unit: 3627

system (see e.g. page 2, paragraph 0021), the commerce item information receiving system under hardware and software control to receive, map and store each commerce item information packet into an aggregate database using a common commerce item information format (see e.g. page 3, paragraph 0025), and associate a commerce item information tag (e.g., XML tags; see page 5, paragraph 0047) to each commerce item information packet stored within the aggregate database.

Tam also shows that the system includes a commerce metric recording system accessible to a vendor (see e.g. receiving orders in 0054 and receiving sales trends in par. 0052) that records commerce metrics related to the online activity regarding any particular commerce item by recording queries (the queries comprising purchases made of items in the database by buyers) of the aggregate database returning a specific unit of commerce item information and the associated commerce item information tag (see also page 7, paragraphs 0071 and 0076; page 10, paragraph 0095).

As per claim 12, the reporting system further enables reporting commerce metrics to an online entity selected from the group of entities consisting of an online service provider and an online vendor (see page e.g., pars. 0052 and 0054 above discussing reporting sales and sales trends, and buying habits as shown in page 7, paragraphs 0071 and 0076,. page 10, paragraph 0095).

As per claim 14, the commerce item information tag further comprises a product identifier (see page 5, paragraph 0047, product information 110 includes product name, product number, etc.), the produd identifier generated according to a methodology that reflects similarities in commerce item information.

Art Unit: 3627

As per claim 15, the methodology for generating product identifiers for association with the commerce item information in the aggregate database generates product identifiers that also reflect the differences in commerce item information (see again page 5, paragraph 0047, product information 1 10 includes product name, product number, etc.).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tam et al (2002/0147656).

As per claim 13, Tam shows all elements of the claim except that the commerce metrics comprise at least one of: a number of user aggregate database queries retrieving the commerce item information associated with the commerce item information tag; temporal aspects related to said user database queries retrieving the commerce item information associated with the commerce item information tag; and aggregate database retrievals initiated by the online merchant system for advertisement related purposes.

However, the examiner takes official notice that it is notoriously old and well known in the art to provide metrics of at least one of these types. It would have been obvious to one of ordinary skill in the art to modify the method of '656 by providing the recited types of data in

Art Unit: 3627

order to enable the seller to better characterize the response to and effectiveness of sales strategies.

Response to Arguments

6. Applicant's arguments filed 7/6/2006 have been fully considered but they are not persuasive.

Applicant argues that Tam does not disclose "recording queries of the aggregate database." In response to Applicant's arguments, Tam discloses that it is old and well known for seller and/or aggregators to collect and use information about the browsing habits of a buyer (see page 3, [0024]). Applicant further argues that Tam does not disclose "queries of the database" as required by new claims 21-23. In response to Applicant's arguments, how can you provide information about the buying habits of a buyer without querying a database. One has to be able to trace the search queries of the buyer to determine items search without a purchase. Claims 11-15 and 21-23 remain rejected over Tam.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on 5:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ronald Laneau
Primary Examiner
Art Unit 3627

9/12/06

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